

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2556 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DAHYABHAI KODARBHAI PATEL

Versus

MANILAL REVABHAI VANKARA

Appearance:

MR MUKESH R SHAH for Appellant

None present for Respondent No.1 & 2

MS MEGHA JANI for Respondent No.3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/09/98

ORAL JUDGMENT

#. Heard the learned counsel for the parties, perused the impugned award and the relevant record of the case.

#. Under the award, the part of which is impugned in this Appeal, Rs.40,600/= were awarded with interest at the rate of 12% p.a. from the date of filing of the

petition till realization with proportionate costs as compensation to the claimant-appellant for the injury which has been caused to him in the motor vehicle accident by the offending vehicle.

#. The only contention raised by the learned counsel for the appellant is that while assessing the just, reasonable and adequate compensation to be awarded for the disability sustained by the claimant-appellant in the motor vehicle accident, only his present income has been taken. The prospective future income should have been taken and thereafter compensation should have been assessed. The learned counsel for the appellant contended that his prospective future income should have been taken to be Rs.2,000/= per month and accordingly determination of the amount of compensation to be paid to him for the injury sustained by him in the motor vehicle accident should have been made.

#. On the other hand, the learned counsel for the Insurance Company contended that in the present case a just, adequate and reasonable award has been passed by the Tribunal to which no exception may be made.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

#. The Tribunal has taken the present income of the claimant-appellant to be Rs.1,000/= p.m. It is true that while determining the just, adequate and reasonable amount of compensation to be awarded to the victim of the motor vehicle accident, prospective future income has to be taken into consideration, but I do not find any merits in the contention of the learned counsel for the appellant that it should be taken to be double of the present income. In such case, the Tribunal has to arrive at a notional figure of the prospective income of the claimant and then to take out the mesne of the two incomes, i.e. present and prospective, for the purpose of calculating the monthly economic loss for determining the dictum figure. In this case, the looking to the upward trend of rise in prices of essential commodities and further looking to the upward trend in salaries, wages, etc., I consider it to be appropriate that the notional prospective future income of the claimant-appellant may be taken to be Rs.2,000/= p.m. and the mesne of the two incomes should be taken to be Rs.1,500/=. The disability of the body as a whole was taken to be 11% and the total amount of compensation under the head of future economic loss would be about $\text{Rs.}136 \times 12 \times 15 = \text{Rs.}24,480/=$. Under this head, the

claimant will be entitled for Rs.5,080/= as additional compensation. He shall also be entitled for interest thereon at the rate of 12% p.a. from the date of filing the claim application till the date of recovery thereof. To this extent, this Appeal is allowed and the award of the Motor Accident Claims Tribunal (Aux.) Sabarkantha at Himmatnagar passed in MACP No.924 of 1990 dated 19.4.97 stands modified. No order as to costs.

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(sunil)